IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

MFA.No. 1240 of 2001(A)

EIC.5/1296 of E.I.COURT, KOZHIKODE
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APPELLANTS/ RESPONDENTS :
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1. **THE REGIONAL DIRECTOR**
   E.S.I. CORPORATION
   THRISSUR.

2. **THE AUTHORISED OFFICER**
   E.S.I. CORPORATION
   THRISSUR

3. **THE RECOVERY OFFICER**
   E.S.I. CORPORATION
   THRISSUR

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENTS/APPLICANT

P.P.MOHANAN, S/O LATE GOVINDAN
GOVINDA BHAVAN
CHOVVA P.O, KANNUR-6

BY ADV. SRI.A.K.SRINIVASAN
SRI.A.S.BENOY
SRI.JIMMY GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18-06-2007 THE COURT ON 18/06/2007 DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR . J.

M.F.A. 1240 of 2001

Dated this the 18th day of June 2007

JUDGMENT

The Regional Director of the E.S.I. Corporation Thrissur along with the authorised officer and the recovery officer have filed this appeal challenging the order passed by the Insurance Court Kozhikode for setting aside a demand made by the 1st appellant against the respondent who was the Managing Partner of a dissolved firm. M/s Prasad Transport , a motor transport undertaking which was covered under the provisions of the E.S.I Act with effect from 1975 was dissolved with effect from 15-1-1992. All the workers were retrenched and paid retrenchment compensation paid in January 1992. They were relieved from the services of the firm. After inspection a demand was made by the Corporation against the respondent for the period from 1-4-1988 to 31-3-1992. The amount due was quantified as Rs. 52065/- The Insurance Court allowed the petition in part and allowed the appellants to initiate fresh proceeding. Challenging that order passed by the judge in E.I.C. 5/1996 the appellants filed this appeal.

2. The Insurance court held that the firm was dissolved on 15-1-1992 as per the deed of resolution dated 27-1-1992 and hence the erstwhile Managing Director alone cannot be made liable for the entire amount claimed by the appellants It is contended that the assets and liabilities of the firm were apportioned among the partners and the firm

was not in existence from 27-1-1992 onwards and even if there is any amount due to the Corporation, that has to be recovered from all the partners. . The firm was closed with effect from 15-2-1992 and the workers were also retrenched with effect from that date. Ext.D4 is the deed of resolution dated 27-1-1992. The dissolution of the partnership firm shows that the liabilities of the erstwhile firm if any on the date of the dissolution shall be discharged by all partners jointly in equal shares. The claim made against the respondent alone much after that date. So the insurance court took a view that it is not just and proper to saddle the respondent alone with the liability . But at the same time the appellants were allowed to withdraw an amount of Rs. 10,000- which was deposited by the respondent . The insurance Court gave permission to the appellant to initiate assessment proceedings under Section 45 A of the E.S.I.Act. I do not find any illegality or impropriety in the order passed by the insurance court. There is no merit in this appeal and the same is only to be dismissed.

3. In the result this appeal is dismissed.

K.PADMANABHAN NAIR,JUDGE

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